

REMARKS

This communication is a full and timely response to the final Office Action dated September 26, 2008. Claims 1-7 remain pending, where claims 8 and 10-12 are withdrawn, and claim 9 was previously cancelled. By this communication, claims 1-4 are amended. Support for the amended subject matter can be found, for example, in paragraph [0020] of the disclosure.

In numbered paragraph 3, on page 3 of the Office Action claims 1-7 are rejected under 35 U.S.C. §112, second paragraph, for alleged indefiniteness. Applicants respectfully traverse this rejection. However, in an effort to expedite prosecution, these claims are amended to address the Examiner's concerns. Withdrawal of this rejection is respectfully requested.

In numbered paragraph 5, on page 4 of the Office Action, claims 1-7 are rejected under 35 U.S.C. §102(e) as allegedly being anticipated by Baird (U.S. Patent No. 7,062,262). Applicants respectfully traverse this rejection.

As variously shown in Figures 1-4, Applicants' exemplary method for tracking production of a product in a plant for liquid foods includes allocating a unit identity to a production unit. The unit identity can be disclosed by means of figures, letters, or a combination of both. The unit identity is registered in a database. A material quantity defines a certain product by volume or other quantities. When a product is produced in a plant for liquid foods, different material volumes or quantities of the product are transported. The manner or type of transport may encompass all or a portion of an entire material volume or quantity. The transport may be defined as a number of events that constitute transporting the product between the different production units. Each event has a source and a destination, which may be

associated to different production units. The events are registered in a table of the database and can be allocated a unique event identity. The events are registered with references to the material quantity work identity and with respect to the unit identities of the source or destination.

Independent claim 1 broadly encompasses the foregoing features by reciting the following:

A method of tracking a production of a product in a plant for liquid foods, comprising:
allocating a unit identity to production units in the plant, the unit identity is registered and constitutes at least one of a source and a destination;
allocating a work identity to a material quantity of the product in the production, and registering the work identity;
registering events in the plant with the work identity of the material quantity of the product, to identify a transport of at least a portion of the material quantity from a source with reference to the unit identity of the source and/or to a destination with reference to the unit identity of the destination; and
displaying data associated with at least one event of a specific point in time based on the unit identity of a production unit and the work identity of the material quantity.

Contrary to the Examiner's position, the *Baird* patent fails to anticipate Applicant's claims.

The *Baird* patent is directed to a production chain element tracking apparatus that tracks the production of a product from its raw materials into a product ready for consumer consumption. See column 5, lines 13-40. In this process, containers that store input ingredients have bar codes that are scanned and stored in a central processor. A customer may obtain information regarding a food chain extending to and/or from a particular product by submitting a query over a network. In this manner, a process can be identified in which a particular ingredient was used.

The *Baird* patent, however, fails to disclose or suggest, at least the following features recited in claim 1:

allocating a work identity to a material quantity of the product in the production, and registering the work identity; and registering events in the plant with the work identity of the material quantity of the product, to identify a transport of at least a portion of the material quantity from a source with reference to the unit identity of the source and/or to a destination with reference to the unit identity of the destination

Rather, the *Baird* patent teaches away from Applicants' claimed features.

Specifically, in the paragraph bridging columns 1 and 2 the *Baird* patent discloses:

A production chain generally comprises a plurality of discrete processes occurring in series (continuous processes can be made discrete by division into time slots). Here, a "process" is defined as anything which changes the composition incorporating the material(s) in question. Thus, blending different ingredients together, or converting feed into chickens are examples of processes. **Shipping material from one location to another or storing material for a period of time are not processes.** *Emphasis added*

Because this reference disclose that shipping material from one location to another (i.e. transporting) is not a process, it thus does not track the shipping of materials from one location to another. Accordingly, the *Baird* patent reference cannot possibly disclose or suggest "registering events in the plant with the work identity of a material quantity of a product, **to identify a transport of at least a portion of the material quantity from a source** with reference to the unit identity of the source and/or to a destination with reference to the unit identity of the destination," as recited in Applicants' claim 1.

To establish a *prima facie* case of anticipation, the Examiner is reminded that the document must disclose, explicitly or implicitly, each and every feature recited in the claim. See Verdegall Bros. v. Union Oil Co. of Calif., 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Because this legal standard has not been met through the application of the *Baird* patent, withdrawal of this rejection is respectfully requested.

CONCLUSION

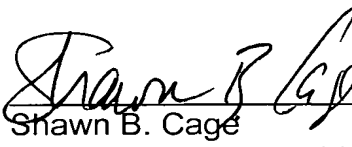
Based on at least the foregoing amendments and remarks, Applicants submit that claims 1-7 are allowable, and this application is in condition for allowance. In the event the instant application can be placed in even better form, Applicants request that the undersigned attorney be contacted at the number below.

Respectfully submitted,

BUCHANAN INGERSOLL & ROONEY PC

Date: January 26, 2009

By:

A handwritten signature in black ink, appearing to read "Shawn B. Cage", is written over a horizontal line.

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